

Union Calendar No. 355

104TH CONGRESS
2D Session

H. R. 3536

[Report No. 104-684]

A BILL

To amend title 49, United States Code, to require an air carrier to request and receive certain records before allowing an individual to begin service as a pilot, and for other purposes.

JULY 17, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

MAY 29, 1996

Mr. DUNCAN (for himself, Mr. SHUSTER, Mr. OBERSTAR, Mr. LIPINSKI, and Mr. HEINEMAN) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

JULY 17, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on May 29, 1996]

A BILL

To amend title 49, United States Code, to require an air carrier to request and receive certain records before allowing an individual to begin service as a pilot, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Airline Pilot Hiring*
 3 *and Safety Act of 1996”.*

4 **SEC. 2. EMPLOYMENT INVESTIGATIONS OF PILOTS.**

5 *(a) IN GENERAL.—Chapter 447 of title 49, United*
 6 *States Code, is amended by redesignating section 44723 as*
 7 *section 44724 and by inserting after section 44722 the fol-*
 8 *lowing:*

9 **“§44723. Preemployment review of prospective pilot**
 10 **records**

11 *“(a) PILOT RECORDS.—*

12 *“(1) IN GENERAL.—Before allowing an individ-*
 13 *ual to begin service as a pilot, an air carrier shall*
 14 *request and receive the following information:*

15 *“(A) FAA RECORDS.—From the Adminis-*
 16 *trator of the Federal Aviation Administration,*
 17 *information pertaining to the individual that is*
 18 *maintained by the Administrator concerning—*

19 *“(i) current airman certificates (in-*
 20 *cluding airman medical certificates) and*
 21 *associated type ratings, including any limi-*
 22 *tations thereon; and*

23 *“(ii) summaries of legal enforcement*
 24 *actions which have resulted in a finding by*
 25 *the Administrator of a violation of this title*
 26 *or a regulation prescribed or order issued*

1 *under this title and which have not been*
2 *subsequently overturned.*

3 “(B) *AIR CARRIER RECORDS.*—*From any*
4 *air carrier (or the trustee in bankruptcy for the*
5 *air carrier) that has employed the individual at*
6 *any time during the 5-year period preceding the*
7 *date of the employment application of the indi-*
8 *vidual—*

9 “(i) *records pertaining to the individ-*
10 *ual that are maintained by an air carrier*
11 *(other than records relating to flight time,*
12 *duty time, or rest time) under regulations*
13 *set forth in—*

14 “(I) *section 121.683 of title 14,*
15 *Code of Federal Regulations;*

16 “(II) *paragraph (A) of section VI,*
17 *appendix I, part 121 of such title;*

18 “(III) *paragraph (A) of section*
19 *IV, appendix J, part 121 of such title;*

20 “(IV) *section 125.401 of such title;*
21 *and*

22 “(V) *section 135.63(a)(4) of such*
23 *title; and*

1 “(ii) other records pertaining to the in-
2 dividual that are maintained by the air
3 carrier concerning—

4 “(I) the training, qualifications,
5 proficiency, or professional competence
6 of the individual, including comments
7 and evaluations made by a check air-
8 man designated in accordance with
9 section 121.411, 125.295, or 135.337 of
10 such title;

11 “(II) any disciplinary action re-
12 lating to the training, qualifications,
13 proficiency, or professional competence
14 of the individual which was taken by
15 the air carrier with respect to the indi-
16 vidual and which was not subsequently
17 overturned by the air carrier; and

18 “(III) any release from employ-
19 ment or resignation, termination, or
20 disqualification with respect to em-
21 ployment.

22 “(C) NATIONAL DRIVER REGISTER
23 RECORDS.—From the chief driver licensing offi-
24 cial of a State, information concerning the motor

1 *vehicle driving record of the individual in ac-*
2 *cordance with section 30305(b)(7) of this title.*

3 “(2) *5-YEAR REPORTING PERIOD.*—A person is
4 *not required to furnish a record in response to a re-*
5 *quest made under paragraph (1) if the record was en-*
6 *tered more than 5 years before the date of the request,*
7 *unless the information is about a revocation or sus-*
8 *pension of an airman certificate or motor vehicle li-*
9 *cence that is still in effect on the date of the request.*

10 “(3) *REQUIREMENT TO MAINTAIN RECORDS.*—
11 *The Administrator and each air carrier (or the trust-*
12 *ee in bankruptcy for the air carrier) shall maintain*
13 *pilot records described in paragraph (1) for a period*
14 *of at least 5 years.*

15 “(4) *WRITTEN CONSENT FOR RELEASE.*—Neither
16 *the Administrator nor any air carrier may furnish a*
17 *record in response to a request made under paragraph*
18 *(1) (A) or (B) without first obtaining the written con-*
19 *sent of the individual whose records are being re-*
20 *quested.*

21 “(5) *DEADLINE FOR PROVISION OF INFORMA-*
22 *TION.*—A person who receives a request for records
23 *under paragraph (1) shall furnish, on or before the*
24 *30th day following the date of receipt of the request*
25 *(or on or before the 30th day following the date of ob-*

1 *taining the written consent of the individual in the*
2 *case of a request under paragraph (1) (A) or (B)), all*
3 *of the records maintained by the person that have*
4 *been requested.*

5 “(6) *RIGHT TO RECEIVE NOTICE AND COPY OF*
6 *ANY RECORD FURNISHED.—A person who receives a*
7 *request for records under paragraph (1) shall provide*
8 *to the individual whose records have been requested—*

9 “(A) *on or before the 20th day following the*
10 *date of receipt of the request, written notice of*
11 *the request and of the individual’s right to re-*
12 *ceive a copy of such records; and*

13 “(B) *in accordance with paragraph (9), a*
14 *copy of such records, if requested by the individ-*
15 *ual.*

16 “(7) *REASONABLE CHARGES FOR PROCESSING*
17 *REQUESTS AND FURNISHING COPIES.—A person who*
18 *receives a request for records under paragraph (1) or*
19 *(9) may establish a reasonable charge for the cost of*
20 *processing the request and furnishing copies of the re-*
21 *quested records.*

22 “(8) *RIGHT TO CORRECT INACCURACIES.—An*
23 *air carrier that receives the records of an individual*
24 *under paragraph (1)(B) shall provide the individual*
25 *with a reasonable opportunity to submit written com-*

1 *ments to correct any inaccuracies contained in the*
2 *records before making a final hiring decision with re-*
3 *spect to the individual.*

4 “(9) *RIGHT OF PILOT TO REVIEW CERTAIN*
5 *RECORDS.*—Notwithstanding any other provision of a
6 *law or agreement, an air carrier shall, upon written*
7 *request from a pilot employed by such carrier, make*
8 *available, within a reasonable time of the request, to*
9 *the pilot for review any and all employment records*
10 *referred to in paragraph (1)(B) pertaining to the pi-*
11 *lot’s employment.*

12 “(10) *PRIVACY PROTECTIONS.*—

13 “(A) *USE OF RECORDS.*—An air carrier or
14 *employee of an air carrier that receives the*
15 *records of an individual under paragraph (1)*
16 *may use such records only to assess the qualifica-*
17 *tions of the individual in deciding whether or*
18 *not to hire the individual as a pilot.*

19 “(B) *REQUIRED ACTIONS.*—Subject to sub-
20 *section (c), the air carrier or employee of an air*
21 *carrier shall take such actions as may be nec-*
22 *essary to protect the privacy of the pilot and the*
23 *confidentiality of the records, including ensuring*
24 *that the information contained in the records is*

1 *not divulged to any individual that is not di-*
2 *rectly involved in the hiring decision.*

3 “(C) *INDIVIDUALS NOT HIRED.*—*If the indi-*
4 *vidual is not hired, the air carrier shall destroy*
5 *or return the records of the individual received*
6 *under paragraph (1); except that the air carrier*
7 *may retain any records needed to defend its deci-*
8 *sions not to hire the individual.*

9 “(11) *STANDARD FORMS.*—*The Administrator*
10 *may promulgate—*

11 “(A) *standard forms which may be used by*
12 *an air carrier to request the records of an indi-*
13 *vidual under paragraph (1); and*

14 “(B) *standard forms which may be used by*
15 *a person who receives a request for records under*
16 *paragraph (1) to obtain the written consent of*
17 *the individual and to inform the individual of*
18 *the request and of the individual’s right to re-*
19 *ceive a copy of any records furnished in response*
20 *to the request.*

21 “(12) *REGULATIONS.*—*The Administrator may*
22 *prescribe such regulations as may be necessary—*

23 “(A) *to protect the personal privacy of any*
24 *individual whose records are requested under*

1 *paragraph (1) and to protect the confidentiality*
2 *of those records;*

3 *“(B) to preclude the further dissemination*
4 *of records received under paragraph (1) by the*
5 *air carrier who requested them; and*

6 *“(C) to ensure prompt compliance with any*
7 *request under paragraph (1).*

8 *“(b) LIMITATION ON LIABILITY; PREEMPTION OF*
9 *STATE AND LOCAL LAW.—*

10 *“(1) LIMITATION ON LIABILITY.—No action or*
11 *proceeding may be brought by or on behalf of an indi-*
12 *vidual who is seeking a position with an air carrier*
13 *as a pilot against—*

14 *“(A) the air carrier for requesting the indi-*
15 *vidual’s records under subsection (a)(1);*

16 *“(B) a person who has complied with such*
17 *request and in the case of a request under sub-*
18 *section (a)(1) (A) or (B) has obtained the writ-*
19 *ten consent of the individual;*

20 *“(C) a person who has entered information*
21 *contained in the individual’s records; or*

22 *“(D) an agent or employee of a person de-*
23 *scribed in subparagraph (A) or (B);*

24 *in the nature of an action for defamation, invasion*
25 *of privacy, negligence, interference with contract, or*

1 *otherwise, or under any Federal, State, or local law*
 2 *with respect to the furnishing or use of such records*
 3 *in accordance with subsection (a).*

4 “(2) *PREEMPTION.*—No State or political sub-
 5 *division thereof may enact, prescribe, issue, continue*
 6 *in effect, or enforce any law, regulation, standard, or*
 7 *other provision having the force and effect of law that*
 8 *prohibits, penalizes, or imposes liability for furnish-*
 9 *ing or using records in accordance with subsection*
 10 *(a).*

11 “(3) *PROVISION OF KNOWINGLY FALSE INFORMA-*
 12 *TION.*—Paragraphs (1) and (2) shall not apply with
 13 *respect to a person that furnishes in response to a re-*
 14 *quest made under subsection (a)(1) information that*
 15 *the person knows is false.*

16 “(c) *LIMITATION ON STATUTORY CONSTRUCTION.*—
 17 *Nothing in this section shall be construed as precluding the*
 18 *availability of the records of a pilot in an investigation or*
 19 *other proceeding concerning an accident or incident con-*
 20 *ducted by the Secretary, the National Transportation Safe-*
 21 *ty Board, or a court.”.*

22 (b) *CHAPTER ANALYSIS AMENDMENT.*—The analysis
 23 *for chapter 447 of such title is amended by striking*

“44723. Annual report.”

24 *and inserting*

“44723. Preemployment review of prospective pilot records.

“44724. Annual report.”.

1 (c) *CONFORMING AMENDMENT.*—Section 30305(b) of
2 such title is amended by redesignating paragraph (7) as
3 paragraph (8) and by inserting after paragraph (6) the fol-
4 lowing:

5 “(7) *An individual who is employed or seeking em-*
6 *ployment by an air carrier as a pilot may request the chief*
7 *driver licensing official of a State to provide information*
8 *about the individual under subsection (a) of this section to*
9 *the individual’s prospective employer or to the Secretary*
10 *of Transportation. Information may not be obtained from*
11 *the Register under this paragraph if the information was*
12 *entered in the Register more than 5 years before the request,*
13 *unless the information is about a revocation or suspension*
14 *still in effect on the date of the request.”.*

15 (d) *CIVIL PENALTIES.*—Section 46301 of such title is
16 amended by inserting “44723,” after “44716,” in each of
17 subsections (a)(1)(A), (a)(2)(A), (d)(2), and (f)(1)(A)(i).

18 (e) *APPLICABILITY.*—The amendments made by this
19 section shall apply to any air carrier hiring an individual
20 as a pilot on or after the 30th day after the date of the
21 enactment of this Act.

1 **SEC. 3. RULEMAKING TO ESTABLISH MINIMUM STANDARDS**
2 **FOR PILOT QUALIFICATIONS.**

3 *Not later than 18 months after the date of the enact-*
4 *ment of this Act, the Administrator of the Federal Aviation*
5 *Administration shall issue a notice of a proposed rule-*
6 *making to establish—*

7 *(1) minimum standards and criteria for*
8 *preemployment screening tests measuring the bio-*
9 *graphical factors (psychomotor coordination), general*
10 *intellectual capacity, instrument and mechanical*
11 *comprehension, and physical fitness of an applicant*
12 *for employment as a pilot by an air carrier; and*

13 *(2) minimum standards and criteria for pilot*
14 *training facilities which will be licensed by the Ad-*
15 *ministrator and which will assure that pilots trained*
16 *at such facilities meet the preemployment screening*
17 *standards and criteria described in paragraph (1).*

18 **SEC. 4. SHARING ARMED SERVICES RECORDS.**

19 *(a) STUDY.—The Administrator of the Federal Avia-*
20 *tion Administration, in conjunction with the Secretary of*
21 *Defense, shall conduct a study to determine the relevance*
22 *and appropriateness of requiring the Secretary of Defense*
23 *to provide to an air carrier, upon request in connection*
24 *with the hiring of an individual as a pilot, records of the*
25 *individual concerning the individual's training, qualifica-*

1 *tions, proficiency, professional competence, or terms of dis-*
2 *charge from the Armed Forces.*

3 *(b) REPORT.—Not later than 1 year after the date of*
4 *the enactment of this Act, the Administrator shall transmit*
5 *to Congress a report on the results of the study.*

6 **SEC. 5. MINIMUM FLIGHT TIME.**

7 *(a) STUDY.—The Administrator of the Federal Avia-*
8 *tion Administration shall conduct a study to determine*
9 *whether current minimum flight time requirements appli-*
10 *cable to individuals seeking employment as a pilot with an*
11 *air carrier are sufficient to ensure public safety.*

12 *(b) REPORT.—Not later than 1 year after the date of*
13 *the enactment of this Act, the Administrator shall transmit*
14 *to Congress a report on the results of the study.*